

108TH CONGRESS  
1ST SESSION

# S. 618

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2003

Mr. REID (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Western Shoshone  
5   Claims Distribution Act”.

### 6   **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) COMMITTEE.—The term “Committee”  
 2 means the administrative committee established  
 3 under section 4(c)(1).

4           (2) WESTERN SHOSHONE JOINT JUDGMENT  
 5 FUNDS.—The term “Western Shoshone joint judg-  
 6 ment funds” means—

7                   (A) the funds appropriated in satisfaction  
 8 of the judgment awards granted to the Western  
 9 Shoshone Indians in Docket Numbers 326–A–  
 10 1 and 326–A–3 before the United States Court  
 11 of Claims; and

12                   (B) all interest earned on those funds.

13           (3) WESTERN SHOSHONE JUDGMENT FUNDS.—  
 14 The term “Western Shoshone judgment funds”  
 15 means—

16                   (A) the funds appropriated in satisfaction  
 17 of the judgment award granted to the Western  
 18 Shoshone Indians in Docket Number 326–K be-  
 19 fore the Indian Claims Commission; and

20                   (B) all interest earned on those funds.

21           (4) JUDGMENT ROLL.—The term “judgment  
 22 roll” means the Western Shoshone judgment roll es-  
 23 tablished by the Secretary under section 3(b)(1).

24           (5) SECRETARY.—The term “Secretary” means  
 25 the Secretary of the Interior.

1 (6) TRUST FUND.—The term “Trust Fund”  
 2 means the Western Shoshone Educational Trust  
 3 Fund established under section 4(b)(1).

4 (7) WESTERN SHOSHONE MEMBER.—The term  
 5 “Western Shoshone member” means an individual  
 6 who—

7 (A)(i) appears on the judgment roll; or

8 (ii) is the lineal descendant of an indi-  
 9 vidual appearing on the roll; and

10 (B)(i) satisfies all eligibility criteria estab-  
 11 lished by the Committee under section  
 12 4(c)(4)(D)(iii);

13 (ii) meets any application requirements es-  
 14 tablished by the Committee; and

15 (iii) agrees to use funds distributed in ac-  
 16 cordance with section 4(b)(2)(B) for edu-  
 17 cational purposes approved by the Committee.

18 **SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT**  
 19 **FUNDS.**

20 (a) IN GENERAL.—The Western Shoshone judgment  
 21 funds shall be distributed in accordance with this section.

22 (b) JUDGMENT ROLL.—

23 (1) IN GENERAL.—The Secretary shall establish  
 24 a Western Shoshone judgment roll consisting of all  
 25 individuals who—

1 (A) have at least  $\frac{1}{4}$  degree of Western  
2 Shoshone blood;

3 (B) are citizens of the United States; and

4 (C) are living on the date of enactment of  
5 this Act.

6 (2) INELIGIBLE INDIVIDUALS.—Any individual  
7 that is certified by the Secretary to be eligible to re-  
8 ceive a per capita payment from any other judgment  
9 fund awarded by the Indian Claims Commission, the  
10 United States Claims Court, or the United States  
11 Court of Federal Claims, that was appropriated on  
12 or before the date of enactment of this Act, shall not  
13 be listed on the judgment roll.

14 (3) REGULATIONS REGARDING JUDGMENT  
15 ROLL.—The Secretary shall—

16 (A) publish in the Federal Register all reg-  
17 ulations governing the establishment of the  
18 judgment roll; and

19 (B) use any documents acceptable to the  
20 Secretary in establishing proof of eligibility of  
21 an individual to—

22 (i) be listed on the judgment roll; and

23 (ii) receive a per capita payment  
24 under this Act.

1           (4) FINALITY OF DETERMINATION.—The deter-  
 2           mination of the Secretary on an application of an in-  
 3           dividual to be listed on the judgment roll shall be  
 4           final.

5           (c) DISTRIBUTION.—

6           (1) IN GENERAL.—On establishment of the  
 7           judgment roll, the Secretary shall make a per capita  
 8           distribution of 100 percent of the Western Shoshone  
 9           judgment funds, in shares as equal as practicable, to  
 10          each person listed on the judgment roll.

11          (2) REQUIREMENTS FOR DISTRIBUTION PAY-  
 12          MENTS.—

13               (A) LIVING COMPETENT INDIVIDUALS.—  
 14           The per capita share of a living, competent in-  
 15           dividual who is 19 years or older on the date  
 16           of distribution of the Western Shoshone judg-  
 17           ment funds under paragraph (1) shall be paid  
 18           directly to the individual.

19               (B) LIVING, LEGALLY INCOMPETENT INDI-  
 20           VIDUALS.—The per capita share of a living, le-  
 21           gally incompetent individual shall be adminis-  
 22           tered in accordance with regulations promul-  
 23           gated and procedures established by the Sec-  
 24           retary under section 3(b)(3) of the Indian Trib-

al Judgment Funds Use or Distribution Act  
(25 U.S.C. 1403(b)(3)).

(C) DECEASED INDIVIDUALS.—The per capita share of an individual who is deceased as of the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid to the heirs and legatees of the individual in accordance with regulations promulgated by the Secretary.

(D) INDIVIDUALS UNDER THE AGE OF 19.—The per capita share of an individual who is not yet 19 years of age on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be—

(i) held by the Secretary in a supervised individual Indian money account; and

(ii) distributed to the individual—

(I) after the individual has reached the age of 18 years; and

(II) in 4 equal payments (including interest earned on the per capita share), to be made—

(aa) with respect to the first payment, on the eighteenth birthday of the individual (or, if the

1 individual is already 18 years of  
 2 age, as soon as practicable after  
 3 the date of establishment of the  
 4 Indian money account of the in-  
 5 dividual); and

6 (bb) with respect to the 3  
 7 remaining payments, not later  
 8 than 90 days after each of the 3  
 9 subsequent birthdays of the indi-  
 10 vidual.

11 (3) APPLICABLE LAW.—Notwithstanding sec-  
 12 tion 7 of the Indian Tribal Judgment Funds Use or  
 13 Distribution Act (25 U.S.C. 1407), a per capita  
 14 share (or the availability of that share) paid under  
 15 this section shall not—

16 (A) be subject to Federal or State income  
 17 taxation;

18 (B) be considered to be income or re-  
 19 sources for any purpose; or

20 (C) be used as a basis for denying or re-  
 21 ducing financial assistance or any other benefit  
 22 to which a household or Western Shoshone  
 23 member would otherwise be entitled to receive  
 24 under—

1 (i) the Social Security Act (42 U.S.C.  
2 301 et seq.); or

3 (ii) any other Federal or federally-as-  
4 sisted program.

5 (4) UNPAID FUNDS.—The Secretary shall add  
6 to the Western Shoshone joint judgment funds held  
7 in the Trust Fund under section 4(b)(1)—

8 (A) all per capita shares (including interest  
9 earned on those shares) of living competent  
10 adults listed on the judgment roll that remain  
11 unpaid as of the date that is—

12 (i) 6 years after the date of distribu-  
13 tion of the Western Shoshone judgment  
14 funds under paragraph (1); or

15 (ii) in the case of an individual de-  
16 scribed in paragraph (2)(D), 6 years after  
17 the date on which the individual reaches  
18 18 years of age; and

19 (B) any other residual principal and inter-  
20 est funds remaining after the distribution under  
21 paragraph (1) is complete.



1 **SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT**  
 2 **JUDGMENT FUNDS.**

3 (a) IN GENERAL.—The Western Shoshone joint judg-  
 4 ment funds shall be distributed in accordance with this  
 5 section.

6 (b) WESTERN SHOSHONE EDUCATIONAL TRUST  
 7 FUND.—

8 (1) ESTABLISHMENT.—Not later than 120 days  
 9 after the date of enactment of this Act, the Sec-  
 10 retary shall establish in the Treasury of the United  
 11 States, for the benefit of Western Shoshone mem-  
 12 bers, a trust fund to be known as the “Western Sho-  
 13 shone Educational Trust Fund”, consisting of—

14 (A) the Western Shoshone joint judgment  
 15 funds; and

16 (B) the funds added under in section  
 17 3(b)(4).

18 (2) AMOUNTS IN TRUST FUND.—With respect  
 19 to amounts in the Trust fund—

20 (A) the principal amount—

21 (i) shall not be expended or disbursed;

22 and

23 (ii) shall be invested in accordance  
 24 with section 1 of the Act of June 24, 1938  
 25 (25 U.S.C. 162a); and

1 (B) all interest income earned on the prin-  
2 cipal amount after the date of establishment of  
3 the Trust fund—

4 (i) shall be distributed by the Com-  
5 mittee—

6 (I) to Western Shoshone mem-  
7 bers in accordance with this Act, to be  
8 used as educational grants or for  
9 other forms of educational assistance  
10 determined appropriate by the Com-  
11 mittee; and

12 (II) to pay the reasonable and  
13 necessary expenses of the Committee  
14 (as defined in the written rules and  
15 procedures of the Committee); but

16 (ii) shall not be distributed under this  
17 paragraph on a per capita basis.

18 (c) ADMINISTRATIVE COMMITTEE.—

19 (1) ESTABLISHMENT.—There is established an  
20 administrative committee to oversee the distribution  
21 of educational grants and assistance under sub-  
22 section (b)(2).

23 (2) MEMBERSHIP.—The Committee shall be  
24 composed of 7 members, of which—

1 (A) 1 member shall represent the Western  
 2 Shoshone Te-Moak Tribe and be appointed by  
 3 that Tribe;

4 (B) 1 member shall represent the  
 5 Duckwater Shoshone Tribe and be appointed by  
 6 that Tribe;

7 (C) 1 member shall represent the Yomba  
 8 Shoshone Tribe and be appointed by that Tribe;

9 (D) 1 member shall represent the Ely Sho-  
 10 shone Tribe and be appointed by that Tribe;

11 (E) 1 member shall represent the Western  
 12 Shoshone Committee of the Duck Valley Res-  
 13 ervation and be appointed by that Committee;

14 (F) 1 member shall represent the Fallon  
 15 Band of Western Shoshone and be appointed by  
 16 that Band; and

17 (G) 1 member shall represent the general  
 18 public and be appointed by the Secretary.

19 (3) TERM.—

20 (A) IN GENERAL.—Each member of the  
 21 Committee shall serve a term of 4 years.

22 (B) VACANCIES.—If a vacancy remains un-  
 23 filled in the membership of the Committee for  
 24 a period of more than 60 days—

(i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and

(ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

(4) DUTIES.—The Committee shall—

(A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i);

(B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;

(C) ensure that those funds are used in a manner consistent with this Act;

(D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—

(i) operating procedures;

(ii) rules of conduct;

(iii) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);

(iv) application selection procedures;

1 (v) procedures for appeals to decisions  
2 of the Committee;

3 (vi) fund disbursement procedures;  
4 and

5 (vii) fund recoupment procedures;

6 (E) carry out financial management in ac-  
7 cordance with paragraph (6); and

8 (F) in accordance with subsection  
9 (b)(2)(C)(ii), use a portion of the interest funds  
10 from the Trust Fund to pay the reasonable and  
11 necessary expenses of the Committee (including  
12 per diem rates for attendance at meetings that  
13 are equal to those paid to Federal employees in  
14 the same geographic location), except that not  
15 more than \$100,000 of those funds may be  
16 used to develop written rules and procedures  
17 described in subparagraph (D).

18 (5) JURISDICTION OF TRIBAL COURTS.—At the  
19 discretion of the Committee and with the approval of  
20 the appropriate tribal government, a tribal court, or  
21 a court of Indian offenses operated under section 11  
22 of title 25, Code of Federal Regulations (or a suc-  
23 cessor regulation), shall have jurisdiction to hear an  
24 appeal of a decision of the Committee.

25 (6) FINANCIAL MANAGEMENT.—

1 (A) FINANCIAL STATEMENT.—The Com-  
 2 mittee shall employ an independent certified  
 3 public accountant to prepare a financial state-  
 4 ment for each fiscal year that discloses—

5 (i) the operating expenses of the Com-  
 6 mittee for the fiscal year; and

7 (ii) the total amount of funds dis-  
 8 bursed under subsection (b)(2)(B)(i) for  
 9 the fiscal year.

10 (B) DISTRIBUTION OF INFORMATION.—  
 11 For each fiscal year, the Committee shall pro-  
 12 vide to the Secretary, to each organization rep-  
 13 resented on the Committee, and, on the request  
 14 of a Western Shoshone member, to the Western  
 15 Shoshone member, a copy of—

16 (i) the financial statement prepared  
 17 under subparagraph (A); and

18 (ii) the list of names compiled under  
 19 paragraph (4)(B).

20 (d) CONSULTATION.—The Secretary shall consult  
 21 with the Committee on the management and investment  
 22 of the funds distributed under this section.

1 **SEC. 5. REGULATIONS.**

2       The Secretary may promulgate such regulations as  
3 are necessary to carry out this Act.

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